

chapter 8

Petroleum Storage Tanks



Petroleum Storage Tanks (PSTs)

Program Assistance

- Air Emissions** - For information on air requirements for systems utilized in the treatment of petroleum-contaminated soil or groundwater, contact Air Quality Permitting at 512/239-1005.
- Automobile Waste Recycling** - For information on automotive waste recycling regulations applicable to the handling and storage of used oil, contact Recycling & Waste Minimization at 512/239-6750.
- Certification** - For assistance with certification and licensing for companies or individuals who perform the installation, repair, modification, maintenance, and removal of regulated underground storage tanks (UST) systems, or who perform remediation activities at leaking petroleum storage tank (LPST) sites, call Occupational Certification at 512/239-0530.
- Construction Notifications** - For questions on UST construction or aboveground storage tank (AST) installation notifications, contact Technical Services at 512/239-2182.
- Emergency Spills** - For assistance with emergency petroleum or hazardous substance spills, call the Environmental Emergency Hotline at 800/832-8224.
- Financial Assurance & Reimbursement** - For assistance with post-payment audits of reimbursement claims from the Petroleum Storage Tank Remediation Fund (PSTRF) or financial assurance requirements, contact Administrative Audits & Financial Assurance at 512/239-6246.
- Inspections** - For information on on-site investigations of regulated UST or AST systems, call Field Operations at 512/239-0400.
- Petroleum Storage Tank Enforcement Issues** - For questions on compliance issues, contact Enforcement at 512/239-2126.
- Pre-approval Questions** - For information on responsible party pre-approval or corrective actions on LPSTs, contact Responsible Party Remediation at 512/239-2200.
- Reimbursement** - For questions on claims for reimbursement from the PSTRF, disputes or reimbursement guidelines, contact Reimbursement at 512/239-2001.
- Runoff** - To prevent runoff from stored, removed USTs, call Watershed Management - Pre-Treatment at 512/239-4563.
- Special Wastes** - For assistance with soils contaminated with non-petroleum hazardous substances, and petroleum-contaminated soils destined for disposal in a landfill, contact Waste Evaluation at 512/239-6833.
- Tank Registrations** - For questions on how to register a tank, fees, certificates, or tank status, contact Registration at 512/239-2160.
- Technical Standards** - For questions on UST technical requirements for release detection, tank removals, installations, repairs and upgrades, contact Technical Services at 512/239-2182.
- Water Wells** - For information on petroleum UST and public drinking water supply well requirements, call Water Utilities Monitoring and Enforcement at 512/239-6020.

Federal and State Authority

Federal

EPA is authorized to develop and administer a regulatory program for underground storage tanks (USTs) under Subtitle I of the Resource Conservation and Recovery Act (RCRA). EPA recognizes the TNRCC program in lieu of federal regulatory requirements. EPA retains authority to take enforcement actions pursuant to Texas statutes and TNRCC rules, and has authority to withdraw program approval (and re-establish the federal program) if TNRCC does not effectively administer and enforce the approved State UST program provisions.

State

TNRCC

Two State laws grant TNRCC the authority to regulate ASTs and USTs. The Texas Water Code (TWC) Chapter 26, Subchapter I authorizes TNRCC to operate a regulatory program for UST and AST systems storing petroleum and hazardous substances and a reimbursement program for corrective action. Statutory provisions in Article 8900, Vernon's Annotated Texas Civil Statutes (VATCS), Chapter 17 authorize TNRCC to register UST contractors and license UST installers and on-site supervisors. For information on the UST and AST regulations, call the PST Division at 512/239-2106

EPA, Region VI, Dallas

The Spill Prevention Control and Countermeasures Plan (SPCC) and secondary containment is required under Title 40, CFR Part 112 for: 1) any petroleum UST over 42,000 gallons in capacity; 2) any petroleum AST which has a volume greater than 660 gallons for a single tank; or 3) any facility containing more than one petroleum AST, with the total volume of these ASTs exceeding 1,320 gallons. The EPA may be reached in Dallas at 214/665-2277.

Texas Commission on Fire Protection

Local fire marshals should always be contacted on rules and regulations affecting USTs and ASTs at retail stations, or at any site where human health and safety might be a concern. The State Fire Marshal's Office (512/918-7100) may be contacted in the event that the name and number of a local fire marshal is needed or if questions arise with regard to rule interpretation.

Texas General Land Office (GLO)

The GLO Oil Spill Division (512/475-1575) has jurisdiction over petroleum USTs or ASTs along the coast with the potential for impacting coastal waters under the Texas Oil Spill Response Act of 1991 (OSPRA).

Texas Railroad Commission (RRC)

Tanks, liquid traps, gathering lines or other facilities used in connection with an activity associated with the exploration, development, or production of oil, gas or geothermal resources are regulated by the RRC Oil and Gas Division (512/463-6887), and are exempt from TNRCC regulation.

Texas State Comptroller of Public Accounts

The Comptroller's Fiscal Management Division (512/463-4903) oversees the fuel surcharge bulk facility payments which are dedicated to the Petroleum Storage Tank Remediation Fund (PSTRF).

Local Governments

Local officials should always be contacted with regard to any UST or AST system regulated by any of the listed agencies to determine whether local regulations might be stricter than state or federal requirements in given areas. If local regulations are stricter, they prevail over state or federal requirements, unless prohibited by law.

Program Requirements

Tank Registrations

UST Registration

A UST is any one or combination of underground tanks and connecting pipes used to contain a regulated substance if the volume of the regulated substance below the ground exceeds ten percent (30 TAC Chapter 334.2). Regulated substances include gasoline, diesel, used oil, jet fuel, acetone, methyl ethyl ketone, and other chemicals listed under the Comprehensive Environmental Response Compensation and Liabilities Act (CERCLA) Chapter 101(14).

Owners of certain USTs existing on or after September 1, 1987 are required to register their tanks with TNRCC unless they were emptied and filled in place before January 1, 1974. Tanks that are empty or unused still must be registered.

UST registration is not required for:

- ▼ Tanks containing substances which are not liquid at standard temperature and pressure;
- ▼ Farm or residential tanks with a capacity of 1,100 gallons or less;
- ▼ Heating oil tanks;
- ▼ Septic tanks;
- ▼ Flow-through process tanks;
- ▼ Sumps with a capacity less than 110 gallons; and
- ▼ Hydraulic lifts (remain subject to release reporting and cleanup action).

AST Registration

Some ASTs must also be registered. Regulated ASTs include those with a capacity greater than 1,100 gallons which store petroleum products that fuel motor vehicles, including gasoline, diesel, kerosene, gasohol, aviation gasoline, and distillate fuel oil. Registration is not required for ASTs containing lubricant oil or jet fuel.

Registration Forms

To register a tank, request either a TNRCC UST Registration Form or a TNRCC AST Registration Form from the PST Registration

Section at 512/239-2160. These forms are also used to amend registered tank information when a tank's status changes. Tank owners should submit a signed and dated, amended registration form within 30 days of any change.

Registration Response Times

The following are general response timeframes for standard registration activities or requests for assistance:

- ▼ New facilities are registered within two days of receipt;
- ▼ Amended facility data is processed as soon as possible, but can take as long as four months, depending on workloads;
- ▼ Most forms are processed within three weeks of receipt;
- ▼ Registration certificates are issued six to eight weeks after registration;
- ▼ Fees are invoiced annually - most owners will receive an invoice the first of each fiscal year;
- ▼ Supplemental billings may occur as often as once a month afterward;
- ▼ Phone calls are returned within 24 hours; and
- ▼ Telephone requests for information are processed on the same day in most cases. If a records search is required, the response may take a few days.

Other Requirements

Financial Assurance

Any facility not covered under the PSTRF (i.e., under active remediation) must have an alternative mechanism for financial assurance, such as pollution insurance. Failure to have and maintain proper financial assurance may subject a tank owner to administrative and civil penalties, risk of court-ordered closure of the tank system and, in extreme cases, possible criminal prosecution. For assistance with financial assurance requirements, contact the Financial Assurance Section at 512-239-6246.

Air and Water Regulations

In addition to the PST requirements noted above, a PST removal or installation must also be evaluated for any impact on air quality. No action can legally result in a condition of nuisance

smoke, odor, dust or aerosol, cause a traffic hazard, or contribute to a condition of air pollution. Nuisance and traffic conditions are referenced in 30 TAC, Chapters 101.4 and 101.5.

There may also be specific air and/or water regulations that affect PST operations, installations and removals. For more information on air or water requirements, contact the appropriate program manager at your TNRCC Region Office (refer to Chapter 1).

Emergency Spills

Regulations for spills from certain underground storage tanks (UST) and aboveground storage tanks (AST) are outlined in 30 TAC Chapter 334.75, "Reporting and Cleanup of Surface Spills and Overfills". Owners and operators of UST systems must contain and immediately clean up a spill or overfill, report to the Commission within 24 hours, and begin corrective action in accordance with 30 TAC Chapters 334.76-334.81 (relating to Initial Response to Releases; Initial Abatement Measures and Site Check; Initial Site Characterization; Free Product Removal; Investigation for Soil and Groundwater Cleanup; and Corrective Action Plan).

Spills include:

- ▼ A spill or overfill of petroleum that results in a release to the environment that exceeds 25 gallons, or that causes a sheen on nearby surface water; and,
- ▼ A spill or overfill of a hazardous substance that results in a release to the environment that equals or exceeds its reportable quantity under CERCLA (40 CFR Part 302).

Owners and operators of UST systems must contain and immediately clean up a spill or overfill of petroleum that is less than 25 gallons, and a spill or overfill of a hazardous substance that is less than the reportable quantity under CERCLA (40 CFR Part 302). If cleanup cannot be accomplished within 24 hours, owners and operators must immediately notify the Executive Director. Refer to Chapter 19, Emergency Response for more information on reporting spills, or call Emergency Response at 512/239-2507 or your Region Office for assistance during business hours. To report a spill after hours, call the Environmental Emergency Hotline at 800/239-8224.

Fees and Reimbursement

Fees

The TWC Chapter 26.358 authorizes TNRCC to assess annual Storage Tank Contractor, Tank Installer, and Tank Registration Fees which are deposited in the Storage Tank Fund (STF). Revenue from the STF:

- ▼ Supports corrective actions on leaking petroleum storage tanks (LPSTs);
- ▼ Provides matching funds for grants and contracts under the TWC, Subchapter I, relating to storage tanks; and
- ▼ Pays administrative, inspection, enforcement and other costs associated with carrying out the duties and purposes of Subchapter I.

Reimbursement

The STF covers the expenses of corrective action taken in response to a release of:

- ▼ Petroleum products from a PST;
- ▼ Hydraulic fluid from a hydraulic lift system located at a vehicle service and fueling facility; and
- ▼ Spent oil from spent oil tanks located at a vehicle service and fueling facility provided that the tank listed under this subsection is also subject to regulation under Subchapter D (see 30 TAC, Chapter 334, Subchapter D, §§334.71-334.85 relating to Release Reporting and Corrective Action).

Eligibility

In order for an owner or operator to be eligible to access the PSTRF program, he/she must meet the following criteria:

- ▼ Own or operate a regulated PST system;
- ▼ The tanks they own or operate must be registered with the TNRCC by December 31, 1995;*
- ▼ All annual tank fees since September 1, 1987 must be paid;
- ▼ Releases must be reported to and confirmed by TNRCC prior to December 22, 1998;
- ▼ All corrective actions and costs must be approved in writing by TNRCC. Reimbursement claims for corrective action taken without written pre-approval will be processed

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after all claims for pre-approved activities have been paid. (Some activities require the seal and supervision of a registered and duly licensed professional engineer); and

▼ The tank must contain a petroleum product as defined in 30 TAC Chapter 334.322.

* Unless the tank was unknown and discovered while upgrading or during a site assessment, unknown and found during construction in the right-of-way, or unknown because the title search and previous property use did not indicate a tank on the property.

Corrective action for spent oil tanks and hydraulic lift systems are reimbursable if the release meets eligibility requirements similar to those for gasoline or diesel storage tanks. The release must also have occurred at a vehicle service and fueling facility where the system was used in conjunction with and contemporaneously with that facility.

Reimbursement Application Review Process

TNRCC requires the original and one copy of the completed application to initiate the reimbursement review process. All applications for reimbursement must be filed by certified mail, return receipt requested; express mail or other overnight delivery service, return receipt requested; or hand delivery to the appropriate offices.

The original application, including all required documentation and any overdue fees and registration information should be submitted to:

TNRCC Petroleum Storage Tank Division
Reimbursement Section MC 139
P. O. Box 13087
Austin, Texas 78711-3087

A copy of the application for reimbursement with all supporting documentation should also be submitted to the TNRCC Region Office where the tanks covered by the application are or were physically located.

Upon receipt of an application for reimbursement of corrective action costs, TNRCC will:

- ▼ Perform an administrative screening;
- ▼ Conduct a technical review;
- ▼ Conduct a financial review;
- ▼ Verify through the TNRCC inspections that the activities to be reimbursed have been performed; and

▼ Verify that all tank registration fees are paid.

For more information on reimbursement eligibility, application forms and assistance, contact Reimbursement at 512/239-2001.

Inspections

TNRCC conducts inspections of PST facilities to ensure compliance with applicable State requirements. A generic description of the inspection process is outlined in Chapter 3. For more information on inspections, contact the TNRCC Field Operations Division (512/239-0400) or your Region Office (refer to Chapter 1).

Types of Inspections

Imminent Endangerment Response - Response to and abatement of impending threats to human health and the environment caused by PSTs.

Tank Removal - The observance of a PST system removal from the ground and associated documentation. This inspection can be conducted at any time during various stages of the system removal or immediately afterward.

Tank Installation - The observance of a PST system installation and the completion of associated documentation.

Tank Upgrade - The observance of various types of PST system upgrades and/or additions to an existing PST system and the completion of associated documentation.

Leak Detection - A compliance evaluation inspection for leak detection on a PST system containing a regulated substance.

Leak Detection Inspection Follow-Up - A re-inspection of an LPST site where violations were documented and where compliance is being confirmed or further technical assistance is required.

Review of Records

The inspector may examine any records, documents, plans and reports that are required. Depending upon the release detection method employed, the inspector may inspect the following records:

- ▼ Required release detection records;
- ▼ Record of the last two line leak detector performance tests;
- ▼ Record of the last two tank and piping tightness tests;

- ▼ Inventory volume measurements;
- ▼ Monthly reconciliation of books;
- ▼ Inventory control records for the past year;
- ▼ Maintenance records;
- ▼ Documentation for the calibration and maintenance of automatic gauging systems;
- ▼ Water Well Driller's Report for each groundwater monitoring well; and
- ▼ Installation records for interstitial monitoring systems.

Visual Inspection

A tour of the site provides the inspector with a better understanding of its operations. The inspector may check, but not be limited to the following:

- ▼ Any tank to determine if it is presently in use;
- ▼ Spill and overfill prevention equipment is present and functioning on all USTs;
- ▼ Dispenser pump has a current calibration sticker;
- ▼ If a gauge stick is used, it is marked legibly and can determine the product level to 1/8 inch over the full range of the tank's internal height;
- ▼ Gauge stick is long enough to reach the tank bottom, and the ends are flat, not worn down;
- ▼ Any other measuring devices are capable of measuring the level of the stored substance to 1/8 inch over the full range of the tank's internal height;
- ▼ Appropriate calibration chart is used to convert product level height to gallons;
- ▼ Well is clearly marked and secured to prevent unauthorized access;
- ▼ Well is equipped with a liquid-tight cover; and
- ▼ Well is free of debris.

Enforcement

Mandatory Responses

A general description of the TNRCC enforcement process is provided in Chapter 3. If air quality violations are involved, the process is

mandated by state law and differs slightly. The violation is either resolved within 30 days from receipt of a notice of violation (NOV), or the matter is referred to Central Office for formal enforcement proceedings. You are advised to contact your Region Office immediately for information on handling violations or to request technical assistance.

If UST violations are noted during the inspection, the inspector will generally issue a standardized notice of violation (NOV) to the owner, and may simultaneously refer the case to the PST Division Enforcement Section in Austin for consideration of formal enforcement action. It is mandatory that the case be referred for consideration of formal enforcement if certain release detection violations are noted during the inspection. The Region Office should be contacted to determine the seriousness of the offense(s), timeframes for compliance, and whether a referral to Austin is warranted.

General PST Enforcement Timeframes

New enforcement case referrals are set for review by the Screening Committee within 30 days of receipt by the Enforcement Section.

An NOV letter is issued to the entity within ten days of review by the Screening Committee.

An Executive Director's Preliminary Enforcement Report or a Draft Order may be sent to the entity within six months of the initial review by the Screening Committee.

An Order may be issued by the Commission within 18 months of the initial Screening Committee review.

In Addition

Frequently Asked Questions

If the subrogation contract is signed by the applicant and returned to TNRCC, can I protest or recover any disallowed or withheld items?

Yes. The contract is only an agreement between TNRCC and the applicant for the amount approved and not the total amount

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requested. The contract should be signed and returned to TNRCC along with the Payee Identification Form so that a check can be processed. The protested amount will be reevaluated at a later date. The Final Protest Response Form must be submitted within 45 days. The withheld items are not subject to the 45 day deadline. Contact Reimbursement at 512/239-2001 for assistance with any questions.

Can an application for reimbursement be submitted at any time?

No. The application should only be submitted at the end of a work phase or on an annual basis.

Are claims which only include tank removal and no corrective action reimbursable?

No. To be eligible for reimbursement, tank removals must be necessary for the performance of corrective action. For cases where it is not obvious, the Reimbursement Coordinator will work with either the Responsible Party Remediation Coordinator or Region Inspector to determine if corrective action is warranted at the site.

How do I qualify for the State-Lead Program?

Admission to the State-Lead Program is limited to responsible parties who are financially unable to perform corrective action, parties who are unwilling to perform necessary corrective action, or sites where the responsible party is unknown. For information about financial review or admission under one of the other criteria, call the TNRCC State-Lead Remediation Section at 512/239-2120.

Are city and county governmental bodies required to comply with State UST and AST regulations the same as other regulated entities?

Yes.

Do I have to remove my UST from the ground by December 22, 1998?

No. December 22, 1998 is the deadline by which all USTs in existence prior to December 22, 1988 must comply with corrosion protection regulations. However, any tank not brought into compliance with this upgrade deadline (or any other deadline which has already passed) is

subject to administrative penalties of up to \$10,000 per day of non-compliance.

Are there any statewide secondary containment requirements for USTs?

Yes, all non-petroleum hazardous substance tanks installed in Texas after December 22, 1988 must have secondary containment immediately, and those installed on or before that date must add secondary containment by December 22, 1998.

What kinds of tanks are allowed for new UST systems?

If they meet industry specifications, fiberglass tanks, composite tanks (steel with fiberglass coating), and steel tanks equipped with cathodic protection are all allowed under TNRCC regulations.

What kind of piping is allowed for new UST systems?

If they meet industry standards, steel piping with cathodic protection and fiberglass piping are allowed.

Significant Laws and Regulations

The following is a brief summary of the federal and State laws and regulations relating to PSTs. Please refer to the official rules for specific questions regarding compliance and applicability. The TNRCC publication "Regulatory Resource" (GI-32) contains detailed information about obtaining copies of the Agency's rules (see Appendix 4). The TNRCC Rules are also accessible from the Agency bulletin board. Refer to OnLine Services in Chapter 2 for more details.

Federal Law

Resource Conservation Recovery Act (RCRA), Subchapter I

Authorizes EPA, states, and territories to develop and administer comprehensive regulatory programs for UST systems storing petroleum and hazardous substances.

Requires financial assurance for owners of petroleum USTs.

Establishes a \$500 million Leaking UST Trust Fund to assist with the cleanup of releases.

Federal Regulation

40 CFR Part 280

Establishes technical standards and corrective action requirements.

Defines owner/operator requirements for notification, technical standards, corrective action, and financial assurance.

State Laws

TWC Chapter 26 Subchapter I

Authorizes a comprehensive regulatory program for UST systems storing petroleum and hazardous substances.

Permits a limited regulatory program for ASTs storing motor-fuel type petroleum products.

Establishes a limited reimbursement program, with funds to be paid from the PSTRF.

*Vernon's Annotated Texas Civil Statutes,
Article 8900 Chapter 17*

Authorizes the registration of UST contractors and the licensing of installers and on-site supervisors who install, remove, or repair UST systems.

Establishes a nine-member PST Advisory Committee, appointed by the governor, to provide technical assistance and advice to TNRCC.

State Regulation

30 TAC Chapter 334

Implements the provisions of federal and state statutes regulating PSTs.

Establishes registration, administrative reporting and recordkeeping requirements for regulated USTs and ASTs.

Sets annual facility fee assessments for in-service USTs and ASTs.

Sets technical standards for new and existing USTs, including standards for tank system design, installation, repair and removal, tank spill containment and overfill prevention, release detection, and corrosion protection.

Establishes release reporting, site assessment, and corrective action for releases from USTs and ASTs, including procedures for risk-based corrective action determinations.